

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

AMY LYNN HUGHES,

Plaintiff,

:

Case No. 3:08-cv-263

-vs-

District Judge Walter Herbert Rice
Magistrate Judge Michael R. Merz

:

GOODRICH CORPORATION, et al.,

Defendants.

DECISION AND ORDER

This case is before the Court on Defendant Goodrich Corporation's Motion to Strike Plaintiff's expert witness designation or, in the alternative, establish new deadlines (Doc. No. 23). Defendant concedes Plaintiff identified two experts, Dr. Robert E. Gaylor and Dr. Mark E. Corcoran, on March 12, 2009, the day before Plaintiff was required to make an expert witness designation. However, it claims no expert reports conforming to Fed. R. Civ. P. 26 were provided.

Plaintiff responds that her two designated experts are her treating physicians and takes the position that such experts need not produce a written report, relying on the Advisory Committee Notes to the 1993 amendments to Rule 26, *Fielden v. CSX Transp. Co.*, 482 F.3d 866 (6th Cir. 2007), and *Gass v. Marriott Hotel Svc's, Inc.*, 501 F. Supp. 2d 1011 (W.D. Mich. 2007).

Rather than attempt to parse the close distinctions between treating physician testimony about facts learned and opinions formed during treatment and opinions formed outside of treatment, the Court adopts the alternative suggested by Defendant and accepted by Plaintiff: Plaintiff shall provide expert reports conforming to Fed. R. Civ. P. 26 and this Court's Preliminary Pretrial Conference Order not later than June 10, 2009. Defendant shall designate rebuttal experts and

provide reports not later than July 10, 2009.

May 15, 2009.

s/ **Michael R. Merz**
United States Magistrate Judge